HOUSE BILL No. 2684

By Committee on Government Efficiency

AN ACT repealing K.S.A. 74-7402, 74-7403, 74-7404, 74-7406 and 74-7407; concerning the ombudsman of corrections; relating to the repeal of outdated sections concerning the ombudsman of corrections; amending K.S.A. 2011 Supp. 45-221 and repealing the existing section; also repealing K.S.A. 74-7402, 74-7403, 74-7404, 74-7406 and 74-7407.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 2011 Supp. 45-221 is hereby amended to read as follows: 45-221. (a) Except to the extent disclosure is otherwise required by law, a public agency shall not be required to disclose:

(1) Records the disclosure of which is specifically prohibited or restricted by federal law, state statute or rule of the Kansas supreme court or rule of the senate committee on confirmation oversight relating to information submitted to the committee pursuant to K.S.A. 2011 Supp. 75-4315d, and amendments thereto, or the disclosure of which is prohibited or restricted pursuant to specific authorization of federal law, state statute or rule of the Kansas supreme court or rule of the senate committee on confirmation oversight relating to information submitted to the committee pursuant to K.S.A. 2011 Supp. 75-4315d, and amendments thereto, to restrict or prohibit disclosure.

(2) Records which are privileged under the rules of evidence, unless the holder of the privilege consents to the disclosure.

(3) Medical, psychiatric, psychological or alcoholism or drug dependency treatment records which pertain to identifiable patients.

(4) Personnel records, performance ratings or individually identifiable records pertaining to employees or applicants for employment, except that this exemption shall not apply to the names, positions, salaries or actual compensation employment contracts or employment-related contracts or agreements and lengths of service of officers and employees of public agencies once they are employed as such.

(5) Information which would reveal the identity of any undercover agent or any informant reporting a specific violation of law.

(6) Letters of reference or recommendation pertaining to the character or qualifications of an identifiable individual, except
documents relating to the appointment of persons to fill a vacancy in an
elected office.

(7) Library, archive and museum materials contributed by private
persons, to the extent of any limitations imposed as conditions of the
contribution.

(8) Information which would reveal the identity of an individual
who lawfully makes a donation to a public agency, if anonymity of the
donor is a condition of the donation, except if the donation is intended
for or restricted to providing remuneration or personal tangible benefit
to a named public officer or employee.

(9) Testing and examination materials, before the test or
examination is given or if it is to be given again, or records of individual
test or examination scores, other than records which show only passage
or failure and not specific scores.

(10) Criminal investigation records, except as provided herein. The
district court, in an action brought pursuant to K.S.A. 45-222, and
amendments thereto, may order disclosure of such records, subject to
such conditions as the court may impose, if the court finds that
disclosure:

(A) Is in the public interest;
(B) would not interfere with any prospective law enforcement
action, criminal investigation or prosecution;
(C) would not reveal the identity of any confidential source or
undercover agent;
(D) would not reveal confidential investigative techniques or
procedures not known to the general public;
(E) would not endanger the life or physical safety of any person;
and
(F) would not reveal the name, address, phone number or any other
information which specifically and individually identifies the victim of
any sexual offense in article 35 of chapter 21 of the Kansas Statutes
Annotated, prior to their repeal, or article 55 of chapter 21 of the Kansas
Statutes Annotated, and amendments thereto.

If a public record is discretionarily closed by a public agency
pursuant to this subsection, the record custodian, upon request, shall
provide a written citation to the specific provisions of paragraphs (A)
through (F) that necessitate closure of that public record.

(11) Records of agencies involved in administrative adjudication or
civil litigation, compiled in the process of detecting or investigating
violations of civil law or administrative rules and regulations, if
disclosure would interfere with a prospective administrative adjudication
or civil litigation or reveal the identity of a confidential source or
undercover agent.
(12) Records of emergency or security information or procedures of a public agency, or plans, drawings, specifications or related information for any building or facility which is used for purposes requiring security measures in or around the building or facility or which is used for the generation or transmission of power, water, fuels or communications, if disclosure would jeopardize security of the public agency, building or facility.

(13) The contents of appraisals or engineering or feasibility estimates or evaluations made by or for a public agency relative to the acquisition of property, prior to the award of formal contracts therefor.

(14) Correspondence between a public agency and a private individual, other than correspondence which is intended to give notice of an action, policy or determination relating to any regulatory, supervisory or enforcement responsibility of the public agency or which is widely distributed to the public by a public agency and is not specifically in response to communications from such a private individual.

(15) Records pertaining to employer-employee negotiations, if disclosure would reveal information discussed in a lawful executive session under K.S.A. 75-4319, and amendments thereto.

(16) Software programs for electronic data processing and documentation thereof, but each public agency shall maintain a register, open to the public, that describes:

(A) The information which the agency maintains on computer facilities; and

(B) the form in which the information can be made available using existing computer programs.

(17) Applications, financial statements and other information submitted in connection with applications for student financial assistance where financial need is a consideration for the award.

(18) Plans, designs, drawings or specifications which are prepared by a person other than an employee of a public agency or records which are the property of a private person.

(19) Well samples, logs or surveys which the state corporation commission requires to be filed by persons who have drilled or caused to be drilled, or are drilling or causing to be drilled, holes for the purpose of discovery or production of oil or gas, to the extent that disclosure is limited by rules and regulations of the state corporation commission.

(20) Notes, preliminary drafts, research data in the process of analysis, unfunded grant proposals, memoranda, recommendations or other records in which opinions are expressed or policies or actions are proposed, except that this exemption shall not apply when such records are publicly cited or identified in an open meeting or in an agenda of an open meeting.
(21) Records of a public agency having legislative powers, which records pertain to proposed legislation or amendments to proposed legislation, except that this exemption shall not apply when such records are:

   (A) Publicly cited or identified in an open meeting or in an agenda of an open meeting; or

   (B) distributed to a majority of a quorum of any body which has authority to take action or make recommendations to the public agency with regard to the matters to which such records pertain.

(22) Records of a public agency having legislative powers, which records pertain to research prepared for one or more members of such agency, except that this exemption shall not apply when such records are:

   (A) Publicly cited or identified in an open meeting or in an agenda of an open meeting; or

   (B) distributed to a majority of a quorum of any body which has authority to take action or make recommendations to the public agency with regard to the matters to which such records pertain.

(23) Library patron and circulation records which pertain to identifiable individuals.

(24) Records which are compiled for census or research purposes and which pertain to identifiable individuals.

(25) Records which represent and constitute the work product of an attorney.

(26) Records of a utility or other public service pertaining to individually identifiable residential customers of the utility or service, except that information concerning billings for specific individual customers named by the requester shall be subject to disclosure as provided by this act.

(27) Specifications for competitive bidding, until the specifications are officially approved by the public agency.

(28) Sealed bids and related documents, until a bid is accepted or all bids rejected.

(29) Correctional records pertaining to an identifiable inmate or release, except that:

   (A) The name; photograph and other identifying information; sentence data; parole eligibility date; custody or supervision level; disciplinary record; supervision violations; conditions of supervision, excluding requirements pertaining to mental health or substance abuse counseling; location of facility where incarcerated or location of parole office maintaining supervision and address of a releasee whose crime was committed after the effective date of this act shall be subject to disclosure to any person other than another inmate or releasee, except
that the disclosure of the location of an inmate transferred to another
state pursuant to the interstate corrections compact shall be at the
discretion of the secretary of corrections;

(B) the ombudsman of corrections, the attorney general, law
enforcement agencies, counsel for the inmate to whom the record
p pertains and any county or district attorney shall have access to
correctional records to the extent otherwise permitted by law;

(C) the information provided to the law enforcement agency
pursuant to the sex offender registration act, K.S.A. 22-4901 et seq., and
amendments thereto, shall be subject to disclosure to any person, except
that the name, address, telephone number or any other information
which specifically and individually identifies the victim of any offender
required to register as provided by the Kansas offender registration act,
K.S.A. 22-4901 et seq., and amendments thereto, shall not be disclosed;
and

(D) records of the department of corrections regarding the
financial assets of an offender in the custody of the secretary of
corrections shall be subject to disclosure to the victim, or such victim's
family, of the crime for which the inmate is in custody as set forth in an
order of restitution by the sentencing court.

(30) Public records containing information of a personal nature
where the public disclosure thereof would constitute a clearly
unwarranted invasion of personal privacy.

(31) Public records pertaining to prospective location of a business
or industry where no previous public disclosure has been made of the
business' or industry's interest in locating in, relocating within or
expanding within the state. This exception shall not include those
records pertaining to application of agencies for permits or licenses
necessary to do business or to expand business operations within this
state, except as otherwise provided by law.

(32) Engineering and architectural estimates made by or for any
public agency relative to public improvements.

(33) Financial information submitted by contractors in
qualification statements to any public agency.

(34) Records involved in the obtaining and processing of
intellectual property rights that are expected to be, wholly or partially
vested in or owned by a state educational institution, as defined in K.S.A.
76-711, and amendments thereto, or an assignee of the institution
organized and existing for the benefit of the institution.

(35) Any report or record which is made pursuant to K.S.A. 65-
4922, 65-4923 or 65-4924, and amendments thereto, and which is
privileged pursuant to K.S.A. 65-4915 or 65-4925, and amendments
thereto.
(36) Information which would reveal the precise location of an archeological site.

(37) Any financial data or traffic information from a railroad company, to a public agency, concerning the sale, lease or rehabilitation of the railroad's property in Kansas.

(38) Risk-based capital reports, risk-based capital plans and corrective orders including the working papers and the results of any analysis filed with the commissioner of insurance in accordance with K.S.A. 40-2c20 and 40-2d20, and amendments thereto.

(39) Memoranda and related materials required to be used to support the annual actuarial opinions submitted pursuant to subsection (b) of K.S.A. 40-409, and amendments thereto.

(40) Disclosure reports filed with the commissioner of insurance under subsection (a) of K.S.A. 40-2,156, and amendments thereto.

(41) All financial analysis ratios and examination synopses concerning insurance companies that are submitted to the commissioner by the national association of insurance commissioners' insurance regulatory information system.

(42) Any records the disclosure of which is restricted or prohibited by a tribal-state gaming compact.

(43) Market research, market plans, business plans and the terms and conditions of managed care or other third-party contracts, developed or entered into by the university of Kansas medical center in the operation and management of the university hospital which the chancellor of the university of Kansas or the chancellor's designee determines would give an unfair advantage to competitors of the university of Kansas medical center.

(44) The amount of franchise tax paid to the secretary of revenue or the secretary of state by domestic corporations, foreign corporations, domestic limited liability companies, foreign limited liability companies, domestic limited partnership, foreign limited partnership, domestic limited liability partnerships and foreign limited liability partnerships.

(45) Records, other than criminal investigation records, the disclosure of which would pose a substantial likelihood of revealing security measures that protect: (A) Systems, facilities or equipment used in the production, transmission or distribution of energy, water or communications services; (B) transportation and sewer or wastewater treatment systems, facilities or equipment; or (C) private property or persons, if the records are submitted to the agency. For purposes of this paragraph, security means measures that protect against criminal acts intended to intimidate or coerce the civilian population, influence government policy by intimidation or coercion or to affect the operation of government by disruption of public services, mass destruction,
assassination or kidnapping. Security measures include, but are not
limited to, intelligence information, tactical plans, resource deployment
and vulnerability assessments.

(46) Any information or material received by the register of deeds
of a county from military discharge papers (DD Form 214). Such papers
shall be disclosed: To the military dischargee; to such dischargee's
immediate family members and lineal descendants; to such dischargee's
heirs, agents or assigns; to the licensed funeral director who has custody
of the body of the deceased dischargee; when required by a department
or agency of the federal or state government or a political subdivision
thereof; when the form is required to perfect the claim of military service
or honorable discharge or a claim of a dependent of the dischargee; and
upon the written approval of the commissioner of veterans affairs, to a
person conducting research.

(47) Information that would reveal the location of a shelter or a
safehouse or similar place where persons are provided protection from
abuse or the name, address, location or other contact information of
alleged victims of stalking, domestic violence or sexual assault.

(48) Policy information provided by an insurance carrier in
accordance with subsection (h)(1) of K.S.A. 44-532, and amendments
thereto. This exemption shall not be construed to preclude access to an
individual employer's record for the purpose of verification of insurance
coverage or to the department of labor for their business purposes.

(49) An individual's e-mail address, cell phone number and other
contact information which has been given to the public agency for the
purpose of public agency notifications or communications which are
widely distributed to the public.

(50) Information provided by providers to the local collection point
administrator or to the 911 coordinating council pursuant to the Kansas
911 act, and amendments thereto, upon request of the party submitting
such records.

(b) Except to the extent disclosure is otherwise required by law or
as appropriate during the course of an administrative proceeding or on
appeal from agency action, a public agency or officer shall not disclose
financial information of a taxpayer which may be required or requested
by a county appraiser or the director of property valuation to assist in
the determination of the value of the taxpayer's property for ad valorem
taxation purposes; or any financial information of a personal nature
required or requested by a public agency or officer, including a name,
job description or title revealing the salary or other compensation of
officers, employees or applicants for employment with a firm,
corporation or agency, except a public agency. Nothing contained herein
shall be construed to prohibit the publication of statistics, so classified as
to prevent identification of particular reports or returns and the items thereof.

(c) As used in this section, the term "cited or identified" shall not include a request to an employee of a public agency that a document be prepared.

(d) If a public record contains material which is not subject to disclosure pursuant to this act, the public agency shall separate or delete such material and make available to the requester that material in the public record which is subject to disclosure pursuant to this act. If a public record is not subject to disclosure because it pertains to an identifiable individual, the public agency shall delete the identifying portions of the record and make available to the requester any remaining portions which are subject to disclosure pursuant to this act, unless the request is for a record pertaining to a specific individual or to such a limited group of individuals that the individuals' identities are reasonably ascertainable, the public agency shall not be required to disclose those portions of the record which pertain to such individual or individuals.

(e) The provisions of this section shall not be construed to exempt from public disclosure statistical information not descriptive of any identifiable person.

(f) Notwithstanding the provisions of subsection (a), any public record which has been in existence more than 70 years shall be open for inspection by any person unless disclosure of the record is specifically prohibited or restricted by federal law, state statute or rule of the Kansas supreme court or by a policy adopted pursuant to K.S.A. 72-6214, and amendments thereto.

(g) Any confidential records or information relating to security measures provided or received under the provisions of subsection (a)(45) shall not be subject to subpoena, discovery or other demand in any administrative, criminal or civil action.


Sec. 3. This act shall take effect and be in force from and after its publication in the statute book.